



# Town Council Agenda Report

**SUBJECT:** Ordinance

**CONTACT PERSON/NUMBER**

Name: Mark Kutney, AICP  
Phone: (954) 797-1101

**TITLE OF AGENDA ITEM:**

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF THE NORTH 2.7 ACRES OF A CERTAIN 4.5 ACRE PARCEL WITHIN THE TOWN OF DAVIE FROM B-3, PLANNED BUSINESS CENTER DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT WITH AMENDED DEED RESTRICTIONS; AND THE SOUTH 1.8 ACRES OF A CERTAIN 4.5 ACRE PARCEL FROM B-3 TO B-3 WITH AMENDED DEED RESTRICTIONS; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

ZB 1-2-00 “Value Dining” Manny Fagundes, V.P., Real Estate Development, petitioner / Hollywood Lincoln Mercury (Value Dining Corporation), owner - 4184 thru 4190 University Drive/Generally located on the east side of University Drive approximately 80 feet south of SW 35th Street.

**REPORT IN BRIEF:**

This request includes two parts: 1) The petitioner is requesting to reinstate the original B-2 zoning designation on the north portion of property (PEBB - Davie Plat) and 2) to amend the existing declaration of restrictions in effect for the entire subject site to allow for a wide range of permitted uses within the B-2 District zoning proposed for the north portion of the site and the existing B-3 District zoning of the south portion of the subject site, while restricting certain intense uses permitted within the B-2 and the B-3 zoning districts (see attached list of uses to be restricted).

The existing restriction, which limits use of the property to a car dealership, was established at the time of a previous rezoning only because a car dealership was being proposed at that time. Therefore, staff believes the proposed amendments to the existing declaration of restrictions on both the north and south portions of the subject site are necessary to allow for reasonable use of the subject site.

The proposed B-2 zoning designation and the B-3 designation with amended restrictions are consistent with the underlying Regional Activity Center (RAC) land use designation and adjacent zoning and land use patterns. All existing residential areas in proximity to the subject site are sufficiently buffered by roadways and large setbacks. Therefore, staff believes the proposed rezoning and amended deed restrictions are consistent with the Town’s Comprehensive Plan and will have no negative impact on existing adjacent and planned uses.

**PREVIOUS ACTIONS:**

- On February 16, 2000, the Town Council tabled this item to its March 1, 2000 meeting (motion carried 5-0)
- On March 1, 2000, the Town Council tabled this item to its March 15, 2000 meeting (motion carried 5-0).
- On March 15, 2000, the Town Council approved this item, subject to the the Planning Division and the Petitioner negotiating additional uses to be restricted (motion carried 5-0).

**CONCURRENCES:**

- On February 9, 2000, the Planning and Zoning Board tabled this item to its February 23, 2000 meeting (motion carried 5-0).
- On February 23, 2000, the Planning and Zoning Board tabled this item to its March 8, 2000 meeting (motion carried 5-0).
- On March 8, 2000, the Planning and Zoning Board recommended approval subject to the voluntary deed restrictions noted in the planning report as amended by the petitioner to include hotels, motels, private clubs, and adult facilities (motion carried 5-0).

**FISCAL IMPACT:** None.

**RECOMMENDATION(S):** Motion to approve the ordinance.

**Attachment(s):** Ordinance with amended deed restrictions, land use map, subject site map, and aerial.

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF THE NORTH 2.7 ACRES OF A CERTAIN 4.5 ACRE PARCEL WITHIN THE TOWN OF DAVIE FROM B-3, PLANNED BUSINESS CENTER DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT WITH AMENDED DEED RESTRICTIONS; AND THE SOUTH 1.8 ACRES OF A CERTAIN 4.5 ACRE PARCEL FROM B-3 TO B-3 WITH AMENDED DEED RESTRICTIONS; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of the north 2.7 acres of a certain 4.5 acre parcel within the Town of Davie be changed from B-3, Planned Business Center District to B-2, Community Business District with amended deed restrictions; and the south 1.8 acres of a certain 4.5 acre parcel be changed from B-3 to B-3 with amended deed restrictions.

WHEREAS, said notice was given and publication made as required by law, and a public hearing thereunder was held on the date of the adoption of this ordinance.  
NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the north portion of the subject property herein after described be and the same is hereby rezoned and changed from B-3, Planned Business Center District to B-2, Community Business District.

a. The north portion of the subject property is described in Exhibit "A", which is attached hereto and made a part hereof.

SECTION 2. That the existing declaration of restrictions is hereby amended on the north portion of the subject property, described in Exhibit "A", to allow for those permitted uses within the B-2, Community Business District zoning designation, with certain restrictions:

a. The revised deed restriction is attached as Exhibit "B", which is attached hereto and made a part hereof.

SECTION 3. That the existing declaration of restrictions on the south portion of the subject property is hereby amended to allow for those permitted uses within the existing B-3, Planned Business Center District with, certain restrictions.

a. The south portion of the subject property is described in Exhibit "C", which is attached hereto and made a part hereof.

b. The revised deed restriction is attached as Exhibit "D", which is attached hereto and made a part hereof.

SECTION 4. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as B-2, Community Business District.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 7. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

\_\_\_\_\_  
MAYOR/COUNCIL MEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

## **EXHIBIT "A"**

### **Legal Description:**

**"Pebb - Davie Plat" (PB 140, PG 2), a portion of tract 15 and the west one-half (W 1/2) of the 30 foot vacated roadway lying between tracts 15 and 16, Section 28, Township 50 south, Range 41 east, "Newman's Survey" (2-26 Dade), Town of Davie, Broward County.**

## EXHIBIT "B"

This instrument Prepared by:

Stephen V. Hoffman, Esq.  
MASTRANA & CHRISTIANSEN, P.A.  
1500 North Federal Highway, Suite 200  
Fort Lauderdale, Florida 33304

### DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned Value Dining of Davie, Inc., a Florida corporation, whose mailing address is 3704 N.W. 82<sup>nd</sup> Avenue, Coral Springs, FL 33065, being the owner(s) of that certain real property located in the Town of Davie, Broward County, Florida, and described on Exhibit "A" attached hereto and made a part hereof, voluntarily makes the following Declaration of Restrictions covering the above-described property, specifying that this Declaration of Restrictions shall constitute a covenant running with the land and that this declaration shall be binding upon the undersigned and upon all personas deriving or taking title through the undersigned. These restrictions, during their lifetime, shall be for the benefit for the Town of Davie, Florida.

1. That the property described on Exhibit "A" attached hereto shall not be used for the following purposes:

Adult Uses, including the following:

Adult Bookstore;  
Adult Mini Motion Picture Theater;  
Adult Motion Picture Theater;  
Adult Motel;  
Nude Entertainment Establishments;  
Adult Video Store; and  
Adult Domination/Submission Parlors.

Bar, Lounge  
Boat Yards  
Bottled Fuel  
Bowling, Skating  
Dance Halls, Clubs  
Game Room, Arcade  
Hotels, Motels  
Machine Shop  
Mobile Home Sales

Mortuary  
Motor Fuel Pumps  
Night Clubs  
Pawnshop  
Pool Rooms  
Private Club  
Service Stations  
Sheet Metal Shop  
Sports Arena  
Vehicle Boat, Truck. Repair Major  
Vehicle Repair, Minor  
Vehicle Towing  
Vehicle Boat, Truck Sales

2. These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the approval of the undersigned or their successors in title or assigns. Any amendment to this Declaration of Restrictions or termination hereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.
3. Invalidation of any one portion of this Declaration of Restrictions or any portion of this document by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
4. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the citizens of the Town of Davie, Florida.

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 22 day of March, 2000.

Signed, sealed and delivered in the presence of:

[Signature]  
Print Name: Tracey Winston  
[Signature]  
Print Name: Ellen M. Gibson

VALUE DINING OF DAVIE, INC.  
a Florida corporation

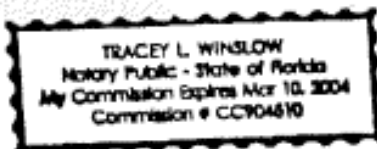
[Signature]  
Steve Markley, President

STATE OF FLORIDA     )  
                                  SS  
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 22 day of March, 2000, by Steve Markley, the President of Value Dining, Inc., a Florida corporation on behalf of the Corporation, who is personally known to me or produced \_\_\_\_\_ as identification.

[Signature]  
Signature: Tracey Winston  
Print Name: Tracey Winston  
Notary Public

NOTARIAL SEAL







## EXHIBIT "C"

### Legal Description:

"Small Fry, Inc." (Broward County, PB 83, PG 16), described as, portions of Tract 15, and 30-foot platted roadway lying East of Tract 15 (now vacated), Section 28, Township 50 South, Range 41 East, "Newman's Survey", according to the plat thereof, recorded in Plat Book 2, Page 26, of the Public Records of Dade County, Florida.

## EXHIBIT "D"

This instrument Prepared by:

Stephen V. Hoffman, Esq.  
MASTRANA & CHRISTIANSEN, P.A.  
1500 North Federal Highway, Suite 200  
Fort Lauderdale, Florida 33304

### DECLARATION OF RESTRICTIONS

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1. That the property described on Exhibit "A" attached hereto shall not be used for the following purposes:

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Nude Entertainment Establishments;  
Adult Video Store; and  
Adult Domination/Submission Parlors.

Bar, Lounge  
Boat Yards  
Bottled Fuel  
Bowling, Skating  
Dance Halls, Clubs  
Game Room, Arcade  
Hotels, Motels  
Machine Shop  
Mobile Home Sales

Mortuary  
Motor Fuel Pumps  
Night Clubs  
Pawnshop  
Pool Rooms  
Private Club  
Service Stations  
Sheet Metal Shop  
Sports Arena  
Vehicle Boat, Truck. Repair Major  
Vehicle Repair, Minor  
Vehicle Towing  
Vehicle Boat, Truck Sales

2. These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the approval of the undersigned or their successors in title or assigns. Any amendment to this Declaration of Restrictions or termination hereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.
3. Invalidation of any one portion of this Declaration of Restrictions or any portion of this document by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
4. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the citizens of the Town of Davie, Florida.

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 22<sup>nd</sup> day of March, 2000.

Signed, sealed and delivered in  
the presence of:

[Signature]  
Print Name: TRACEY WINSLOW

Elena M. Gibson  
Print Name: Elena M. Gibson

VALUE DINING OF DAVIE, INC.  
a Florida corporation

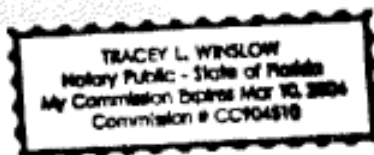
[Signature]  
Steve Markley, President

STATE OF FLORIDA     )  
                                  SS  
COUNTY OF BROWARD)

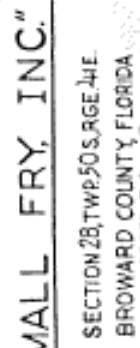
The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of March, 2000, by Steve Markley, the President of Value Dining, Inc., a Florida corporation on behalf of the Corporation, who is personally known to me or produced \_\_\_\_\_ as identification.

[Signature]  
Signature  
Print Name: TRACEY WINSLOW  
Notary Public

NOTARIAL SEAL





[illegible]

COUNTY RECORDING: APPROVED  
THIS DAY 22 MARCH 1982, I have approved and attested that Barbara M. ... is the duly appointed

DESCRIPTION	DATE	AMOUNT	REMARKS
...	...	...	...

[illegible]

The period "Janella First Inc." is hereby assigned this \_\_\_\_\_ day of \_\_\_\_\_, 1974.

[illegible]

DECLARATION BY MORTGAGEE  
CATHERINE MARIE WILSON, mother and holder of  
a Mortgage on the Property addressed on the back of  
this document, hereby declares that the above-  
described property is not subject to any other  
Mortgage, Lien, or other encumbrance.

WITNESSED my hand and the seal of my office  
this 10th day of March, 1914.

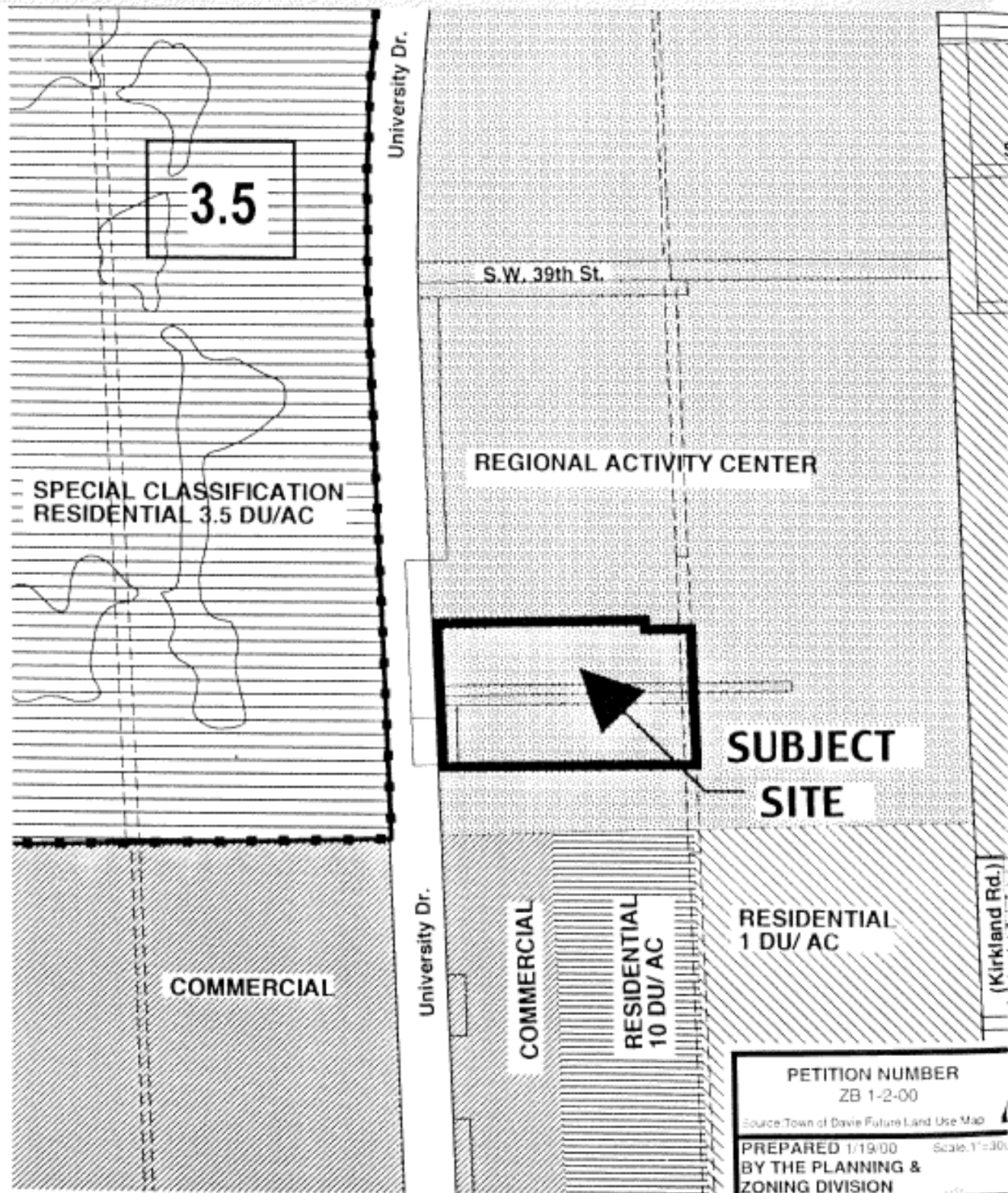
JOHN J. WILSON, Notary Public for the State of New York.

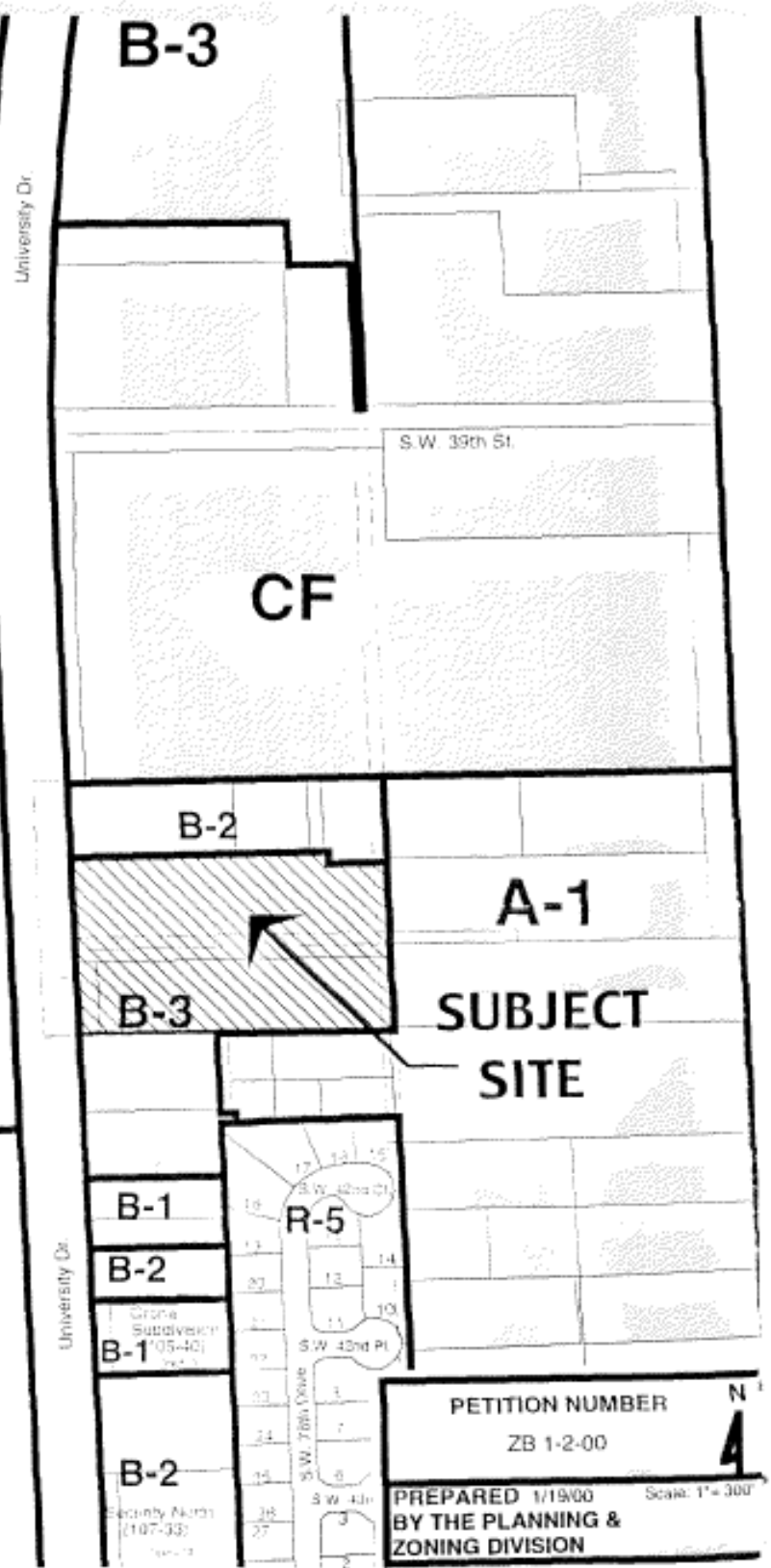
COMMISSION EXPIRES 10th day of March, 1915.

**HENRIAD COUNTY LOCAL PLANNING BOARD**  
 met in its 10th meeting. That the Board of Local Planning Board approved the final "LOCAL PLAN" with regard to the location of the proposed highway project, which was approved by the Board of Local Planning Board on 10/10/1974.

**BROWARD COUNTY PLANNING BUILDING AND ZONING DEPARTMENT**  
 The Planning Unit is hereby notified for Record by the Broward County Planning Building and Zoning Department  
 12-11-2011 day of -march- 2011 By: [Signature] [Signature]

[illegible]





PETITION NUMBER  
ZB 1-2-00

PREPARED 1/19/00  
BY THE PLANNING & ZONING DIVISION

Scale: 1" = 300'

N

4





POST OFFICE

CHURCH / SCHOOL

SW 39TH ST

CHURCH / SCHOOL

COMMERCIAL

SINGLE FAMILY RESIDENTIAL  
(UNDER CONSTRUCTION)

SUBJECT SITE

SINGLE FAMILY  
RESIDENTIAL



DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
ZB 1-2-00